

**IN RE:**     **John McAdams**                         )     **Davidson County**  
             **Property ID: 042 07 0A 057.00CO**     )     **Appeal No. 90992**  
             **Property ID: 042 07 0A 052.00CO**     )     **Appeal No. 90993**  
             **Tax Years 2013 & 2014**                 )

## Statement of the Case

<u>PARCEL</u>	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
05700CO	\$18,000	\$75,900	\$93,900	\$23,475
05200CO	\$18,000	\$66,400	\$84,400	\$21,100

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

**875 Heritage Circle; 042-07-0A 057.00CO**

The subject property is a 1,097 square foot single family residence with two bedrooms and one bath. The taxpayer contended that the subject should be valued at \$72,500.

Mr. McAdams provided a copy of an appraisal report valuing the subject at \$70,000 as of June 12, 2013. Mr. McAdams summarized his position as follows:

The property was placed on the market at a list price of \$79,900. The seller and I, due to the substantially outdated and substandard condition of the property, came to a \$66,500 purchase agreement. Both is significantly lower than the \$86,000 current state's appraisal. Since I purchased the property via a conventional loan process, the banking regulations require an arm's length transaction to have an independent third party non-biased appraisal performed. This property's appraisal was returned with a professional sales comparison approach to be valued at \$70,000. This included an in person, interior/exterior close inspection of the property evaluated. One huge consideration, in my opinion, is that the siding is of Masonite siding material. They stopped making this product in the early 1980s due to its inferiority and was sued via class action lawsuit. This property seems to be in the minority that will require this Masonite siding to be replaced in the near future at a current cost of \$6,000-\$10,000. The Masonite currently is eroding and will further downgrade the functionality of the siding and the curb appeal.

The assessor's representative contended that the value of the subject should be lowered to \$86,000. To support this position, Ms. Dauscha presented a detailed sales comparison approach analysis. Mr. McAdams argued that Ms. Dauscha's sales comparison approach did not properly account for siding material differences.

Since the taxpayer is appealing the determination of the Metropolitan Board, he has the burden of proof in this proceeding. *See* State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981). Tenn. Code Ann. § 67-5-601(a) provides, "The value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values..." The Assessment Appeals Commission has observed,

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented

without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value . . . .

*E.B. Kissell, Jr.* (Final Decision & Order, Shelby County, Tax Years 1991 and 1992).

The Assessment Appeals Commission has refused to consider appraisal reports where the authors were not present to testify and be subject to cross-examination.<sup>1</sup> But in the context of residential appeals, an administrative judge has recently observed,

The administrative judge finds it perfectly appropriate for the taxpayer and/or her husband to rely on [the absent appraiser's] appraisal report in formulating his or her own opinion of value. However, the administrative judge also finds that [the absent appraiser's] report standing by itself cannot receive the weight it might possibly otherwise receive because he was not present to testify or respond to the assessor's criticisms.

*Donna L. Johnson* (Initial Decision & Order, Knox County, Tax Years 2013-2014, issued June 6, 2014).<sup>2</sup>

Upon review of the record, the administrative judge attributes little weight to the taxpayer's purchase price of the subject, since the contract was signed at a price well below the listing price after the subject property had been on the market for a very short time. Similarly, the administrative judge rejects the third comparable in the taxpayer's appraisal report, which was on the market for only 10 days prior to the sale. With respect to the remaining comparables in the parties' reports, the administrative judge finds that 401 Heritage Lane – which was included in the reports of both parties - should receive primary weight. The administrative judge finds 401 Heritage Lane sold just before the assessment date; was very similar to the subject in terms of

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<sup>1</sup> *TRW Koyo* (Final Decision & Order, Monroe County, Tax Years 1992-1994, issued January 13, 1995).

<sup>2</sup> See also *Nina Reineri* (Initial Decision & Order, Knox County, Tax Year 2012, issued April 26, 2013) and *Cheryl & Sheila Wheeler* (Initial Decision & Order, Roane County, Tax Year 2013, issued October 21, 2013) (utilizing residential appraisal report by absent appraiser for purpose of supplementing taxpayer's additional proof and independent opinion of value); *Linda A. & Phillip G. Matteson* (Initial Decision & Order, Rutherford County, Tax Year 2012, issued May 17, 2013) (in absence of objection from opposing party, utilizing residential appraisal report by absent appraiser for purpose of considering certain relevant sales); and *Betty Hiatt Skeen* (Initial Decision & Order, Smith County, Tax Year 2013, issued April 17, 2014) (although found to be hearsay, residential appraisal report by absent appraiser admissible per Tenn. Code Ann. § 4-5-313(1)).

layout, size, and vintage; was very close to the subject; and received the least gross and net adjustments in the parties' reports.

The administrative judge finds the value of the subject should be lowered to \$83,000, primarily based on the assessor's representative's analysis of the 401 Heritage Lane comparable, but with a small additional negative adjustment due to that comparable's superior brick siding. This value bears a close relationship to the taxpayer's \$82,000 appraisal report value indication for the same comparable as well as the \$79,900 listing price of the subject prior to the taxpayer's purchase.

**857 Heritage Circle; 042-07-0A 057.00CO**

The subject property is a 1,056 square foot single family residence with two bedrooms and one and a half baths. The taxpayer contended the subject should be valued at \$74,500. The record includes a portion of an appraisal report valuing the subject at \$82,000 as of June 12, 2013. Mr. McAdams summarized his position as follows:

This was a private sale so the price was not inflated by a realtor's 6% added cost. This price was also reduced due to the internal condition of the property and the extensive repairs that were needed. The value should be higher than the \$55,000 sales price but not to the assessor's recommendation. The state's assessment shows the properties' are relatively similar in value, I propose to base the second property, 857 Heritage Cir, \$2000 higher than first....

The property was purchased as a cash deal at the end of 2012 and refinanced middle of 2013. I saved a significant amount of money due to the "as is where is" condition of the sale. There was significant damage to the interior along with the need to bring the property into the current century with substantial updates. The appraisal, as before, was performed during a conventional finance of the property which triggered an arm's length transaction to have an independent third party non-biased appraisal performed via current banking guidelines. This also included an in person, interior/exterior close inspection of the property evaluated.

This property was improved dramatically at that first of 2013. While these updates were significant, the overall value of this property was returned with a generous professional sales comparison to be \$82,000 (post renovations).

The assessor's representative contended that the subject should be valued at \$84,000. To support this position, Ms. Dauscha presented a detailed sales comparison analysis.

Upon review of the record, the administrative judge recommends the value be lowered to \$84,000 consistent with the assessor's representative's recommendation. The administrative judge finds the taxpayer failed to establish a prima facie case. The administrative judge ascribes little weight to the taxpayer's purchase price because the conditions of the sale are suspect. The administrative judge also finds the sales in the taxpayer's appraisal report were after the January 1, 2013 assessment date,<sup>3</sup> and in two cases, suspect. The administrative judge finds that the taxpayer has failed to quantify the effect of any pre-renovation condition problems that may have been present on the January 1, 2013 assessment date.<sup>4</sup> Finally, the assessor's representative provided reasonable support for her conclusion of value, and it should be pointed out that the value conclusions in the parties' reports are mutually supportive.

#### ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2013 and 2014:

<u>PARCEL</u>	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
05700CO	\$18,000	\$65,000	\$83,000	\$20,750
05200CO	\$18,000	\$66,000	\$84,000	\$21,000

<sup>3</sup> In *Acme Boot Company & Ashland City Industrial Corporation* (Final Decision & Order, Cheatham County, Tax Year 1989, decided August 7, 1990), the Assessment Appeals Commission opined, "...[E]vents occurring after (the assessment) date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events."

<sup>4</sup> The State Board has generally declined to order value reductions on account of obsolescence in absence of evidence sufficient to quantify the obsolescence. *Fred and Ruth Ann Honeycutt* (Final Decision & Order, Carter County, Tax Year 1995, issued January 8, 1998); *Kenneth R. and Rebecca L. Adams* (Final Decision & Order, Shelby County, Tax Year 1998, issued December 14, 2000).

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

**The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.**

ENTERED this 9<sup>th</sup> day of October 2014.



Mark Aaron, Administrative Judge  
Tennessee Department of State  
Administrative Procedures Division  
William R. Snodgrass, TN Tower  
312 Rosa L. Parks Avenue, 8<sup>th</sup> Floor  
Nashville, Tennessee 37243

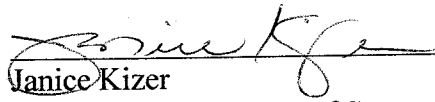
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

John McAdams  
Apartment 803  
400 Warioto Way  
Ashland City, TN 37015

George L. Rooker, Jr.  
Davidson Co. Assessor of Property  
700 Second Avenue South, Suite 210  
Post Office Box 196305  
Nashville, Tennessee 37219-6305

This the 9<sup>th</sup> day of October 2014.

  
Janice Kizer  
Tennessee Department of State  
Administrative Procedures Division